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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

C.D., Petitioner; v. THE SUPERIOR COURT OF ORANGE COUNTY, Respondent; ORANGE COUNTY SOCIAL SERVICES AGENCY et al., Real Parties in Interest.	G057143 (Super. Ct. Nos. 18DP0407, 18DP0408, 18DP0409, 18DP0881) O P I N I O N

Original proceedings; petition for a writ of mandate/prohibition to challenge an order of the Superior Court of Orange County, Dennis J. Keough, Judge. Petition and request for stay denied.

Vincent Uberti for Petitioner C.D.

Leon J. Page, County Counsel, Karen L. Christensen and Jeanie Su, Deputy County Counsel, for Orange County Social Services Agency.

Law Offices of Harold LaFlamme and Yana N. Kennedy, for Minors.

* * *

C.D. (mother) seeks extraordinary writ relief (Cal. Rules of Court, rules 8.450, 8.452) from the juvenile court's jurisdictional and dispositional orders concerning her minor children E.D., G.D., V.D. and Z.D. Mother challenges the sufficiency of the evidence to support the juvenile court's finding that V.D. suffered severe physical injury (Welf. & Inst. Code, § 300, subd. (e); all statutory references are to this code). She also contends the court erred in finding Orange County Social Services Agency (SSA) made reasonable efforts to prevent removal (§ 319, subd. (g)), bypassing further reunification services (§ 361.5, subds. (b)(5) & (b)(6)), and scheduling a permanency planning hearing for April 17, 2019 (§ 366.26). Finally, mother claims the court erred in denying a continuance to allow an alleged father of Z.D. the opportunity to obtain appointed counsel. Our review discloses no basis to overturn the court's orders and therefore we deny the requested relief.

I

FACTS AND PROCEDURAL BACKGROUND

On April 22, 2018, then one-year old V.D. was taken by her maternal aunt to Children's Hospital of Orange County (CHOC) for treatment of a large burn on V.D.'s abdomen. It was determined that the child's injury was infected and had been caused nonaccidentally. Father could not provide a plausible explanation of how V.D. sustained the serious injury. Although father and mother were aware of the child's injury, neither parent sought medical treatment for V.D. The minors (then 10-year-old E.D., eight-year old G.D., and V.D.) were taken into protective custody.

At the April 25-27, 2018 detention hearing, mother did not make an appearance, and father invoked his Fifth Amendment rights. The juvenile court detained the minors after finding "there is a substantial danger to the physical health" of the children if they remained in the parents' physical custody. It ordered SSA to provide reunification services as soon as possible (§ 319, subd. (g)). It also ordered two-hour

monitored visits twice weekly for father, and the same visitation for mother "[u]pon the Mother presenting herself."

On August 15, 2018, then newborn, Z.D., was detained based on the same allegations against the parents regarding V.D.'s serious injury. The juvenile court authorized six-hour weekly supervised visitation for mother, and one-hour weekly supervised visitation for father. It also ordered paternity testing for the two possible fathers, father and J.P. Both father and J.P. missed the scheduled paternity tests. A social worker (Velasco-Trujillo) informed J.P. of various hearing dates in the dependency case, but J.P. said he could not attend. J.P. never visited or requested to visit Z.D. He declined to provide his home address and offered no information regarding any relatives for placement.

At the December 3, 2018 jurisdiction hearing, neither mother nor father showed up, and their counsel had no explanation for the parents' absence. The juvenile court heard arguments from counsel, and accepted into evidence various SSA reports. According to the jurisdiction and detention reports, in April 2018, V.D. suffered a second degree abdominal burn, measuring 2.5 inches by 3.5 inches. It was determined the child's injury was infected. CHOC Dr. Wong declared the burn was due to nonaccidental trauma. Dr. Wong also explained the burn scar's discoloration meant the scar could be permanent. Dr. Wong also opined that V.D. would have cried and displayed noticeable pain and discomfort when the injury occurred, explaining "[t]here was no way anyone caring for the child would not have noticed a difference in the child's behavior." Both the child's babysitter and the child's aunt heard the child say "ouch" when touched. Father provided no plausible explanation for how the child sustained the injury. Mother stated she saw the burn and father became upset when she asked him about the child's injury. E.D. reported that when mother saw the burn, she cried and told father to take V.D. to the hospital. The child's babysitter and a relative also advised father to seek medical treatment for V.D., but he failed to do so. Mother neither obtained medical

treatment for the child nor reported the injury to law enforcement. V.D. received no medical treatment until April 21, 2018, when the child's maternal aunt Angelica took the child to the hospital. Police investigators later arrested father for child cruelty, and determined V.D. sustained the injury between April 17 and 18, 2018, while in father's custody.

Father had physically abused the minors. E.D. reported that father kicked him once on the leg, and observed father punch V.D. in the stomach with a closed fist. G.D. reported that father punches him in the arm "a lot." G.D. did not see V.D. get burned, but reported that E.D. told him father had burned V.D. with a lighter.

Mother and father had a history of domestic abuse, which often occurred in the presence of the minors. E.D. stated his parents fight, and described an incident where father pushed mother and she began crying. G.D. stated that his parents fought often often. A child abuse referral was substantiated for domestic abuse between the parents in September 2017. In April 2018, mother reported she and father engaged in mutual physical violence. Father threw an object at mother, which hit E.D. in the head.

Mother and father have unresolved substance abuse problems. Mother self-reported using methamphetamine before May 2018. Mother reported father uses methamphetamine. G.D. reported seeing father drunk after drinking beer.

Finally, according to the jurisdiction and detention report, mother admitted using methamphetamine while pregnant with Z.D. Mother and alleged father J.P. also had a history of domestic violence. J.P. has a prior conviction for domestic violence. Mother reported that J.P. has physically abused her.

The juvenile court found the allegations in the petition true by a preponderance of the evidence, and sustained amended petitions under section 300 for the minors. With respect to V.D., it sustained the petition under sections 300, subdivisions (a) [serious physical harm], (b) [failure to protect] and (e) [severe physical abuse]. With

respect to E.D., G.D., and Z.D., the court sustained the petitions under section 300, subdivisions (a), (b), and (j) [abuse of sibling].

At the December 18-21, 2018 disposition hearing, mother and father were absent again. The juvenile court accepted into evidence various SSA reports, including those previously submitted at the jurisdiction hearing. The court also heard live testimony from social worker Velasco-Trujillo. According to the submitted evidence, during the eight months between detention (April 2018) and disposition (December 2018), mother visited her children inconsistently, often arriving 30 to 40 minutes late or failing to show up. Neither mother nor father visited E.D. since he was placed into a group home in August 2018. E.D. reported he felt "most sad on weekends as he is the only child [in his group home] who does not have any visitors." When E.D. called mother about her failure to visit, mother would claim she had been busy with reunification services. G.D. reported calling mother every day, but she never called him back.

Mother also failed to meaningfully participate in SSA's reunification services provided following the minors' detention. Social worker Velasco-Trujillo testified she had at least six discussions with mother encouraging her to get involved in the case plan for reunification. Velasco-Trujillo provided mother with bus passes and with referrals to various services, including individual counseling and outpatient mental health services, but mother failed to participate in any counseling or any reunification services. According to various SSA reports, mother never enrolled in a substance abuse treatment program. She missed most of her scheduled drug tests, including all drug tests in October, November, and December 2018. She did not attend counseling, and provided no verification of attending self-help meetings. She provided verification of attending only three dates of a parenting class. A few weeks before disposition, father reported that he and mother were separating because he did not believe she was working toward reunification.

Tthe juvenile court removed the minors from the parents' custody. It found that SSA made reasonable efforts to prevent or eliminate the need for removing the children from the parents' home. (§ 361, subd. (d).) The court observed that "the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement by the mother has been none; by the father has been none." The court also found by clear and convincing evidence that reunification services need not be provided to mother and father under section 361.5, subdivisions (b)(5) and (b)(6). Specifically, the court found father inflicted V.D.'s injury. It determined V.D. sustained the initial injury and suffered from continuing pain. It further found mother was aware of the injury and father's failure to seek medical treatment and his propensity to abuse the minors. In response to mother's argument that she believed she was under a restraining order preventing her from seeking medical treatment for V.D., the court found that she could have sought assistance for V.D. through relatives, V.D.'s school or SSA. The court further determined the injury could leave permanent physical disfigurement. The court acknowledged it was unclear whether the burn itself would result in permanent scarring, but the wound was left untreated, and therefore "the infection process . . . complicates and further aggravates the child's condition [and] can have very severe consequences." Finally, the court set a hearing under section 366.26 to determine the children's permanent plan.

The parents' counsel requested that the juvenile court appoint counsel for J.P. and continue the matter "for that attorney to get up to speed." The court denied the requests, but stated it would appoint counsel for J.P if he requested. At the disposition hearing, SSA's counsel stated that J.P. had not participated in paternity testing and asked the court to find that J.P. remained merely an alleged father. The court granted SSA's request and found that J.P. was an alleged father.

Mother timely noticed an intent to file a writ petition. Father and J.P. do not challenge the juvenile court's orders.

II

DISCUSSION

A reviewing court must uphold a juvenile court's findings and orders if supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036-1037.) Determinations of the credibility of witnesses and resolutions of conflicts in the evidence are for the juvenile court to resolve; we do not revisit these matters on review. (*In re Tanis H.* (1997) 59 Cal.App.4th 1218, 1226-1227.) We must draw all inferences in support of the juvenile court's findings and view the record in the light most favorable to the court's orders. (*In re Jasmon O.* (1994) 8 Cal.4th 398, 423.) Consequently, mother bears the burden to show the evidence is insufficient to support the court's findings. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

A. *Substantial Evidence Supports the Juvenile Court's Order Denying Mother Reunification Services under Section 361.5, subdivision (b)(5)*

Generally, whenever a child is removed from a parent's custody, reunification services must be provided to the parents (361.5, subd. (a)). The juvenile court, however, may deny or "bypass" reunification services for a parent based on a finding, by clear and convincing evidence, that one of the conditions found within section 361.5, subdivision (b), applies. (§ 361.5, subd. (b); *Tyrone W. v. Superior Court* (2007) 151 Cal.App.4th 839, 845.) Section 361.5, subdivision (b)(5), allows the court to deny services if "the child was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian." "'[C]onduct' as it is used in section 361.5, subdivision (b)(5) refers to the parent in the household who knew or should have known of the abuse, whether or not that parent was the actual abuser." (*In re Kenneth M.* (2004) 123 Cal.App.4th 16, 21.)

Section 300, subdivision (e), provides for jurisdiction when "[t]he child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the

person was physically abusing the child." "'[S]evere physical abuse' means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death." (§ 300, subd. (e).)

Here, the juvenile court found jurisdiction under section 300, subdivision (e), based on V.D.'s burn injury. Substantial evidence supports the juvenile court's finding that father inflicted the injury nonaccidentally. Specifically, a police investigation determined that the injury happened while V.D., who was then one-year old, was in the custody of father, and Dr. Wong opined that the injury was nonaccidental in nature. In addition, substantial evidence supported the court's finding that V.D. suffered severe physical abuse. After the wound had been treated, Dr. Wong concluded it was likely the burn would result in a permanent scar. Had the infected wound been left untreated, as the court reasonably found, it would most likely have caused permanent physical disfigurement. In sum, substantial evidence supported the court's finding of jurisdiction under section 300, subdivision (e).

Mother contends she was not present when V.D. sustained the injury, and lacked knowledge father would inflict such injuries. But mother admitted seeing V.D.'s injury, and E.D. reported mother cried when she saw the injured child and told father to seek medical treatment for V.D. Mother also admitted father became upset and left after she asked him about the injury. Mother never sought medical treatment for V.D. Nor did she report the injury to law enforcement or SSA. Mother's failure to seek medical treatment constituted "infliction of serious injury by omission." (*Pablo S. v. Superior Court* (2002) 98 Cal.App.4th 292, 301 [although parents did not inflict initial injury, their failure to seek medical treatment for injury constituted infliction of serious injury]; see also *In re Petra B.* (1989) 216 Cal.App.3d 1163, 1169 [juvenile court has jurisdiction under section 300 where parents "were not capable or willing to exercise proper medical care"].)

Mother's reliance on *L.Z. v. Superior Court* (2010) 188 Cal.App.4th 1285 (*L.Z.*) is misplaced. There, the parties stipulated that the child's rib injuries would not be detectable, and there was insufficient evidence that the mother should have suspected abuse from the child's impaired use of his arm, which the mother had reported to a doctor. (*Id*. at pp. 1292-1293.) Here, in contrast, mother knew that V.D. had suffered a severe injury requiring medical attention, but never reported the injury to medical personnel or anyone else.

Finally, mother contends that even if the bypass provision applies, the juvenile court still could have offered reunification services, and that it erred in not doing so. As this court has explained, "once SSA proves by clear and convincing evidence that a dependent minor falls under subdivision (e) of section 300, the general rule favoring reunification services no longer applies; it is replaced by a legislative assumption that offering services would be an unwise use of governmental resources. If the court then chooses to offer services, it must make a finding that they are likely to prevent reabuse of the child, and this finding must be supported by substantial evidence." (*Raymond C. v. Superior Court* (1997) 55 Cal.App.4th 159, 164.) Mother has not shown that substantial evidence would support further reunification services. As noted above, SSA provided mother with reunification services, including drug testing and referrals to parenting classes, counseling and mental health services, but failed to participate in any counseling and never enrolled in a substance abuse treatment program. She sporadically attended parenting classes. She missed most of her scheduled drug tests, including all drug tests in the three months immediately preceding the jurisdiction and disposition hearings. Mother's failure to avail herself of the offered services supports the juvenile court's implicit finding that further reunification services would not succeed in preventing reabuse of V.D. There was no error in denying further reunification services.

B. *Substantial Evidence Supports Bypassing Reunification Services under Section 361.5, subdivision (b)(6)*

The juvenile court also denied mother reunification services under section 361.5, subdivision (b)(6). That statutory provision states that a court may bypass reunification services where (1) "the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of . . . the infliction of severe physical harm to the child, a sibling, or a half sibling by a parent," and (2) "the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian." (§ 361.5, subd. (b)(6).) For the same reasons stated above, substantial evidence supports the court's jurisdiction ruling under section 300. V.D. suffered a burn injury that became infected and required medical attention, and mother failed to seek medical treatment for V.D. despite actual knowledge of the injury. Substantial evidence also supports the court's finding it would not benefit the child to offer further reunification services. Mother's failure to meaningfully participate in reunification services and her failure to consistently visit her children supports the court's finding that it would not benefit the minors to offer further reunification services. In sum, the court properly determined reunification services could be denied under section 361.5, subdivision (b)(6).

C. *Substantial Evidence Supports the Juvenile Court's Finding that SSA Made Reasonable Efforts to Prevent Removal*

As noted, after the minors were detained in April 2018, the juvenile court ordered SSA to provide mother with reunification services. In its December 2018 disposition order, the court found SSA made reasonable efforts to prevent removal. Mother contends SSA failed to address her depression and lack of organization which resulted in her "inconsistent" use of reunification services.

"To support a finding that reasonable services were offered or provided to the parent, 'the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult.'" *(In re A.G.* (2017) 12 Cal.App.5th 994, 1001; accord, *In re J.E.* (2016) 3 Cal.App.5th 557, 566.) "'The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.' [Citation.] The 'adequacy of reunification plans and the reasonableness of [SSA's] efforts are judged according to the circumstances of each case.'" (*In re A.G.*, *supra*, 12 Cal.App.5th at p. 1001.)

Here, mother's general neglect of the minors resulted in their detention. SSA provided mother with referrals to parenting classes, substance abuse programs, counseling, and mental health services. A social worker provided mother with bus passes and referrals, and frequently encouraged her to comply with the case plan for reunification. However, mother did not participate in any counseling, never enrolled in a substance abuse treatment program, and sporadically attended parenting classes. Although she initially participated in some drug testing, she skipped all drug tests in the months preceding the jurisdiction hearing. Father also believed mother no longer wanted to continue with reunification. Although mother claimed she was depressed and lacked organization, she failed to avail herself of counseling or mental health services. SSA was not required to "take the parent by the hand and escort . . . her to and through classes or counseling sessions." (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1463, fn. 5.) In sum, substantial evidence supports the juvenile court's finding that SSA provided reasonable services.

D. *No Error in Denying Continuance*

Finally, mother contends the trial court erred in sustaining Z.D.'s petition after denying a continuance so that "an attorney could at least contact J[.]P[.] to see if he wanted representation." As an initial matter, it is unclear whether mother has standing to challenge the denial of the continuance, as J.P. would be the only person who might be aggrieved by the denial of the continuance. (See *In re Frank L.* (2000) 81 Cal.App.4th 700, 703 ["a parent cannot raise issues on appeal from a dependency matter that do not affect her own rights."].) In any event, even if mother's challenge is cognizable, the trial court did not abuse its discretion in denying a continuance.

"Continuances are discouraged in dependency cases." (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 604.) Nonetheless, upon request of counsel for the minor or petitioner, the court may continue a hearing unless a continuance would be "contrary to the interest of the minor. In considering the minor's interests, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements." (§ 352, subd. (a).) We review the court's rulings on continuance requests for an abuse of discretion. (*In re Mary B.* (2013) 218 Cal.App.4th 1474, 1481.)

Here, mother sought a continuance to allow J.P. an opportunity to request or have counsel appointed. But J.P. is merely an alleged father, as paternity has not been established. "[A]n alleged father is not entitled to appointed counsel or reunification services." (*In re Paul H.* (2003) 111 Cal.App.4th 753, 760.) An alleged father *is* entitled to notice, which provides "'him an opportunity to appear and assert a position and attempt to change his paternity status. [Citations.]'" (*Ibid.*) However, substantial evidence shows J.P. was provided notice of the various dependency hearings, but never appeared. Nor has he expressed any interest in attempting to change his paternity status. J.P. failed to show up for multiple scheduled paternity tests, and he never visited or

requested to visit Z.D. On this record, the court did not abuse its discretion in denying a continuance.

III

DISPOSITION

The petition seeking extraordinary relief from the juvenile court's orders finding jurisdiction, bypassing reunification services and setting a section 366.26 permanency planning hearing for April 17, 2019, is denied, as is the request for a stay of that hearing.

ARONSON, ACTING P. J.

WE CONCUR:

IKOLA, J.

THOMPSON, J.